



## TOWN OF EAST HAMPTON

300 Pantigo Place – Suite 105  
East Hampton, New York 11937-2684

Planning Department  
JoAnne Pahlwul, AICP  
Director

Telephone (631) 324-2178  
Fax (631) 324-1476

July 14, 2020

**TO:** Planning Board

**FROM:** Eric Schantz  
Senior Planner *E.S.*

**RE:** Freund 291 Springs Fireplace Road – Site Plan  
SCTM#300-119-5-6

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**Last Review Date:** June 17, 2020

**Items and Date Received:** 06/25/20 Applicant submission; Cover letter re: Ten (10) original site plans prepared by Jeffrey T. Bulter, P.E., P.C. dated June 19, 2020; and Ten (10) copies of the revegetation plan prepared by Due East Planning Inc, dated June 18, 2020 (SP101)

**Background Information:** Application is made to replace and make additions to an existing wood retaining wall which includes changing the material to concrete.

The subject parcel is nearly 100% cleared of naturally-occurring vegetation with a patch of deciduous woodlands to the north. It is situated along Springs Fireplace Road in East Hampton, although very close to the beginning of Springs. It is zoned NB: Neighborhood Business and contains a multi-unit building, a “multiple business complex” containing retail businesses.

### Issues for Discussion:

#### Split Rail Fence

The notation on the site plan has been amended to identify the 4' tall fence as split rail with wire mesh weave, as requested by the Board.

#### Scenic Easement

The scenic easement covers the narrow strip of land in front of the building along Springs Fireplace Road. The Board stated at the time of the last review that it would defer to Counsel to determine if the existing nature of use of this area is acceptable or if re-vegetation will be required.

**Height**

The Board expressed concern at the time of the last review as to whether or not the proposed roughly 4' setback from the split rail fence and the retaining wall would meet applicable building codes.

The Planning Department spoke with the Principal Building Inspector about this issue and it was her opinion that the currently-proposed design, with the fence setback from the top of the retaining wall, would be allowable. However, this has yet to be put in writing as of the date of this memo although further information has been requested. The Office of Fire Prevention, who has reviewed this issue stated by letter dated July 6, 2020 that no additional review was required.

**Landscaping**

The landscaping plan has been amended to indicate the height of the proposed shrubs and trees in feet, as requested by the Board.

**Minor Site Plan**

It appears that pending the resolution of the aforementioned issues the application will ultimately meet the standards to be considered a minor site plan as per section 255-6-45 of the Town Code (see attached). The Board should form a consensus on whether or not to require a public hearing.

**Conclusion**

In conclusion, the application is incomplete, pending the resolution of the issues regarding the easement and the setback of the fence and retaining wall.

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*How will the issue regarding the scenic easement be resolved?*

Additional comments: \_\_\_\_\_  
\_\_\_\_\_

*Is any additional information required at this time?*

Additional comments: \_\_\_\_\_  
\_\_\_\_\_

*Does the Board wish to require a public hearing?*

Additional comments: \_\_\_\_\_  
\_\_\_\_\_

**Additional Board Comments:**

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## Chapter 255. Zoning

### Article VI. Site Plan Review

#### § 255-6-45. Minor site plans.

[Amended 10-16-1987 by L.L. No. 16-1987; 11-15-1996 by L.L. No. 19-1996; 11-1-2002 by L.L. No. 34-2002]

Notwithstanding the provisions of § 255-6-40 hereof, the Planning Board may waive the holding of a public hearing on a site plan application which is classified as a Tier Two personal wireless service facility application or which meets each and every one of the following conditions:

- A. Conformance to chapter. The proposed structure does not require a variance from any provision of this chapter.
- B. Health Department approval. The proposed structure does not require approval of the Suffolk County Department of Health Services.
- C. Area and habitability. The proposed structure is not habitable and covers no more than 500 square feet in area.
- D. Parking. No additional parking is required under this chapter.
- E. Planning considerations. The proposed structure will not create a visual detriment to surrounding properties or to the general public and will not cause drainage problems, impede traffic circulation or interfere with the proper overall planning of the site.
- F. Public controversy. The application has caused no significant public controversy.

## GRANT OF SCENIC EASEMENT

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SCENIC EASEMENT

THIS INDENTURE, made as of this 31<sup>st</sup> day of January, 1984, by and between TOWER INVESTMENTS, a partnership having a principal place of business at <sup>C/o John McGowan, Esquire, 135 Main Street,</sup> ~~P.O. Box 610, Wainsett, East Hampton~~ New York 11975, ("the grantor"), and THE TOWN OF EAST HAMPTON, a municipal corporation having its office at 159 Pantigo Road, East Hampton, New York 11937, ("the grantee"),

WHEREAS, the grantor is the owner of lands at Springs-Fireplace Road, Town of East Hampton, County of Suffolk and State of New York, described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of East Hampton, County of Suffolk and State of New York, more particularly bounded and described as follows:

BEGINNING at a point which is the intersection of the westerly side of Springs-Fireplace Road (Suffolk County Road No. 41) and the easterly side of an unopened road known as Old Fireplace Road; and running thence from the point of beginning along the westerly side of Springs-Fireplace Road (Suffolk County Road No. 41) South 13° 35' 53" West 580.00 feet to a point; running thence North 76° 24' 07" West 10.00 feet; running thence North 13° 35' 53" East 66.00 feet; running thence North 28° 00' 00" East 29.06 feet; running thence North 62° 00' 00" West 7.46 feet; running thence North 13° 35' 53" East 50.00 feet; running thence North 28° 23' 48" East 27.41 feet; running thence North 13° 35' 53" East 106.50 feet; running thence North 16° 39' 21" West 13.89 feet; running thence North 13° 35' 53" East 26.00 feet; running thence North 64° 26' 52" West 98.16 feet to a point on the easterly side of Old Fireplace Road; running thence along the easterly side of Old Fireplace Road the following two (2) courses and distances: 1. North 33° 01' 04" East 117.00 feet; and 2. North 40° 29' 54" East 148.38 feet to the point or place of BEGINNING,

and the said parcel constitutes an area of natural scenic beauty, and the present state of use enhances the present and potential value of abutting and surrounding properties and enhances the conservation of natural and scenic resources; and

WHEREAS, the grantor wishes to grant a scenic and conservation easement to the grantee affecting the above-

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identified real property; and

The grantee has instituted and is carrying out programs to maintain open space and to preserve the beauty and natural condition of lands in the Town; and

The General Municipal Law of the State of New York at Section 247 carries into law the declared intent of the Legislature of the State of New York that the rapid growth and spread of urban development is encroaching upon, or eliminating many open areas and spaces of varied size and character, including many having significant scenic or esthetic value, which areas and space if preserved and maintained in their present open space would constitute important physical, social, esthetic or economic assets to existing or future Town development; and

The grantee, in furtherance of the above policy and in accordance with General Municipal Law, Section 247, wishes to accept the scenic and conservation easement hereby proffered by the grantor.

NOW THEREFORE, in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration to the grantor, receipt of which is hereby acknowledged, this agreement witnesseth that:

1. The grantor does hereby donate, grant, transfer and convey unto the TOWN OF EAST HAMPTON, in perpetuity, a scenic and conservation easement in gross, of the nature, character and to the extent hereinafter set forth, over and upon all that certain lot, piece or parcel of land as set forth and described above (hereinafter sometimes referred to as the "burdened premises").

2. The nature, character and extent of the easement hereby granted are as follows:

(a) No building or structures of any description shall be erected on the burdened premises.

(b) No topsoil shall be removed from the burdened



premises nor shall sand, gravel, peat or other minerals be excavated therefrom for any purpose;

(c) Burdened premises, to maintain their present appearance, shall remain in their natural state, and for this purpose the grantor, its heirs and assigns, reserve the exclusive right to use and enjoy said burdened premises;

(d) The grantee shall have the right to annual inspection of the burdened premises for the purpose of assuring itself that the grantor is not in violation of any of the terms and conditions of this scenic easement, such inspection to be by prior arrangement with and at the convenience of the grantor.

(e) Grantor reserves the right to plant and otherwise improve said scenic easement areas with shrubs, etc.

3. The nature, character and extent of limitations on the within grant of easement are as follows:

(a) The burdened premises shall not be open or available to the public for general or park use, but shall remain at all times in the exclusive possession of the grantor, its heirs and assigns, and subject to its unqualified right to exclude others therefrom by any and all lawful means, except as indicated in paragraph 2(d).

(b) All right, interests and privileges of the grantor in the burdened premises not herein specifically donated, granted, transferred and conveyed, remain and reside with the grantor, its heirs and assigns.

4. The grantee hereby undertakes to cooperate to the extent legally permissible in having the valuation placed upon the burdened premises for purposes of real estate taxation taken into account and limited by the restrictions imposed by this scenic easement, all in accordance with State of New York General Municipal Law, Section 247.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date and year first above written.

TOWER INVESTMENTS

By: Judith Siegel  
Partner

ATTEST:

Kathleen Mott  
Town Clerk

TOWN OF EAST HAMPTON

By: Judith Hope  
Supervisor



STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

On the 5<sup>th</sup> day of January, 1984, before me personally came JUDITH SIEGEL, to me personally known, and known to me to be a member of the partnership of Tower Investments, and known to me to be the individual described in and who executed the foregoing instrument in the partnership name of Tower Investments, and she duly acknowledged to me that she executed the same for and in behalf of said partnership.

*Patricia Swanson*  
Notary Public

PATRICIA SWANSON  
Notary Public, State of New York  
No. 62 4609969  
Qualified in Suffolk County  
Term Expires March 30, 1985

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

On the 9<sup>th</sup> day of ~~January~~ *April*, 1984, before me personally came JUDITH HOPE, to me known, who, being by me duly sworn, did depose and say that she resides in ~~East Hampton~~ *6801 Star & Hopes Rd.*, Suffolk County, New York; that she is the Supervisor of the Town of East Hampton, the municipal corporation described in and which executed the foregoing instrument; and that she signed her name thereto pursuant to a resolution duly adopted by the Town Board of the Town of East Hampton.

*Grace A. Borsicil*  
Notary Public

GRACE A. BORSICIL  
NOTARY PUBLIC, State of New York  
No. 52-8416575 Qualified in Suffolk County  
Term Expires March 30, 1986





300-123-3-4-015

300-123-3-5-003

300-123-3-9-002

300-123-4-0-001

300-123-5-16-001

300-123-5-23-001

300-123-5-246

300-123-5-25-001

123-6-12

300-123-6-13

300-110-5-8-004

300-143-1-2-001



